

U.S. Patent Application Serial No. 10/697,788
Reply to Office Action dated October 6, 2005

Remarks:

Applicant has read and considered the Office Action dated October 6, 2005 and the references cited therein. Claims 8, 13, 18, 20 and 22-25 have been amended. New claims 28 and 29 have been added. Claims 1-7 and 26-27 have been cancelled without prejudice or disclaimer. Claims 8-25 and 28-29 are currently pending.

Applicant notes that claims 20-25 were misnumbered originally and have been renumbered as claims 22-27. Applicant has renumbered the claims accordingly in the present Amendment.

A Restriction Requirement was placed on the application. Previously, an election had been made by telephone to elect the Invention of Group II, claims 8-25. Applicant hereby confirms election of Invention II. Claims 1-7 and 26-27 have now been cancelled.

Claims 20-21 were rejected under 35 U.S.C. § 112 as being non-enabling. The Action stated that the specification drawings only disclosed hardware extending through the gutter and the support segment, but not the support segment and the cover. Claim 20 has been amended and recites that the hardware extends through the gutter. Applicant asserts that claim 20 is fully supported and requests withdrawal of the rejection of claims 20 and 21.

Claims 8, 10-11 and 13-19 were rejected under 35 U.S.C. § 102(b) as being anticipated by Knudson. The Action stated that Knudson shows a gutter and cover system comprising a gutter formed from a first coil of material having a front face, a bottom and a rear portion extending upward to a top segment, a cover system formed from a second coil of material, the cover extends over the gutter and has a debris separation portion extending upward adjacent the top segment of the gutter, interlocking means for coupling the gutter and the cover together to form a single unit, the interlocking means comprising crimping the top segment of the gutter with the flange of the cover together to interlock the top segment of the gutter with the flange

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portion of the cover. The Action also states that Knudson discloses that the gutter is made of a first material and the cover of a second material and that the gutter and cover are attached without a connector member. The Action further states that Knudson discloses mounting means for securing the system to the edge of a roof comprising mounting hardware for securing the system to the roof and extending through a hole in the gutter and cover system.

Claim 8 now recites a gutter formed from a first coil of material having a front face, a bottom and a rear portion extending upward to a top segment, a cover formed from a second coil of material, wherein the cover extends over the gutter and has a debris separation portion extending above the front face of the gutter, and a lip portion extending upward and wrapping over the top segment of the gutter. The lip portion of the cover and the top segment of the gutter are pressed together along their length to form an integral gutter and cover assembly.

Applicant asserts that Knudson neither teaches nor suggests such a seamless gutter and cover system. Applicant notes that although the Office Action asserts that Knudson discloses crimping the top segment of the gutter and the flange portion of the cover together to interlock the top segment of the gutter with the flange portion of the cover, careful reading of Knudson reveals that the reference does not teach interlocking or crimping. As recited in column 4, lines 53-59, Knudson recites, "a two piece shielded gutter 92 mounted on support structure 13 having a roof 14. A stationary gutter shown has a semi-circular bottom wall 96, a front wall 97 and a back wall 98 forming a U-shaped gutter channel with a top opening. A removable top shield 99 extends downwardly and forwardly from the upper end or top of the back wall 98" (*emphasis added*). Moreover, as the Office Action recites elements 99A and 98A as corresponding structure, it was noted that these elements are shown in Figure 11. At column 6, lines 42-48, Knudson states "Referring now to FIG. 11, a modified form of separate shield could have a hook 99a at the rear end of the shield opening toward the bottom that would fit down over the upper straight end 98a at the back wall of the gutter so the rear of the shield would attach to the gutter rather than the support device. Otherwise, the device 131 and mounting shield would be the

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same as shown in FIGS. 9 and 10." Figure 11 therefore also shows a removable cover rather than an integral cover and gutter. Clearly, there is no teaching or suggesting that the elements are crimped together. Rather, the gutter and cover in Knudson are removable from one another, thereby teaching away from an integral assembly. Moreover, Knudson does not teach the lip portion of the top segment of the gutter being pressed together along their length to form an integral gutter and cover assembly as recited in claim 8. The present invention provides for a construction method with an assembly having an integral gutter and cover assembly that can be cut to length to form a seamless gutter and cover system. The simple construction can be carried out with a portable roll forming system. Where the gutter and cover are made separately as is taught by Knudson, crimping afterwards may not be possible as access to the portion to be pressed together is limited and the lengthy components are too unwieldy to pass through a roll forming device. Applicant asserts that claim 8 patentably distinguishes over Knudson and provides advantages for ease of manufacture and for improved construction that is not possible with the prior art. Applicant asserts that claim 8 and claims 10-11 and 13-19 patentably distinguish over Knudson.

Claims 9, 22 and 24 were rejected as being unpatentable over Knudson in view of Manoogian, Jr. The Office Action states that Manoogian discloses a kinetic energy dispersion section and that it would have been obvious to combine the references. Claim 9 depends from claim 8 and is believed to be allowable for the reasons stated above. Moreover, claim 22 recites structure similar to that of claim 8 and is believed to be allowable for the reasons stated above. Applicant asserts that Manoogian fails to address the shortcomings of the Knudson reference. Even if combined, Applicant asserts that the Knudson and Manoogian patents do not achieve the present invention. Applicant requests that the rejection over the combination of Knudson and Manoogian be withdrawn.

Claim 12 was rejected as being unpatentable over Knudson in view of Manoogian. The Office Action states that Manoogian teaches that the second material could be copper. Applicant

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asserts that claim 12 depends from claim 8, which is believed to be allowable for at least the reasons discussed above. Applicant asserts that claim 12 is allowable for at least these reasons.

Claims 23 and 25 were rejected as being unpatentable over Knudson in view of Manoogian. The Action states that Knudson shows all of the limitations except for the gutter face defining a K-style or square profile, but that it would have been obvious to combine the two. Applicant asserts that claim 22 is allowable for the reasons stated above and that claims 23 and 25 depending from claim 22 are also believed to be allowable for at least those reasons.

Claims 20-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Knudson in view of Manoogian. The Action states that Manoogian shows mounting hardware extending through a hole in the debris separation portion of the cover and that it would have been obvious to combine the two. Applicant asserts that claim 8, from which these claims depend, is allowable for at least the reasons stated above. Applicant asserts that claims 20 and 21 are allowable for those reasons as well as others.

Claim 28 recites that the kinetic energy dispersion section comprises a pooling section. Applicant asserts that Knudson shows a curving cover portion while Manoogian shows only speed bumps, but neither teaches a pooling section. Applicant asserts that the pooling section provides for improved kinetic energy dispersion that directs more water into the gutter while separating debris. Moreover, such a profile provides for greater support. Claim 29 recites an internal support that has a pooling segment profile against an underside of the pooling section of the cover. The internal support therefore provides direct support to the pooling section of the cover so that it is not deformed. Applicant asserts that this is neither shown nor suggested by the references.

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A speedy and favorable action on the merits is hereby solicited. If the Examiner feels that a telephone interview may be helpful in this matter, please contact Applicant's Representative at (612) 336-4728.



Respectfully submitted,

MERCHANT & GOULD P.C.

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GAS/km